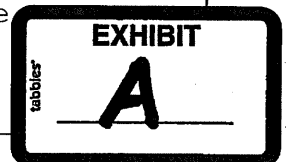


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVETTE ESPARZA, :
Plaintiff, :
VS. : CIVIL ACTION NO.
BANK OF AMERICA, N.A. and : 3:12-cv-00662-D
RODERICK WILSON, :
Defendants. :

ORAL DEPOSITION OF
DAVETTE ESPARZA RAMIREZ
SEPTEMBER 26, 2012

ORAL DEPOSITION OF DAVETTE ESPARZA
RAMIREZ, produced as a witness at the instance of the
Defendants, and duly sworn, was taken in the
above-styled and numbered cause on Wednesday, the 26th
day of September, 2012, from 9:23 a.m. to 6:34 p.m.,
before Sarah Mae Blackburn, a Certified Court Reporter
in and for the State of Texas, reported by machine
shorthand, at the Allen Law Firm, 4150 International
Plaza, Suite 600, Fort Worth, Tarrant County, Texas
76109, pursuant to the Federal Rules of Civil
Procedure and any stipulations stated on the record or
attached hereto. It is further agreed that Rule
30(b)(4) is waived by agreement of the parties.
Job No. CS1338847



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973-410-4040

Page 21

1 January of 2003; is that correct?

2 A Yes.

3 Q I'm going to show you a chronology of your
4 employment. I'm going to mark it as Exhibit 1. And
5 it shows the positions that you held at Bank of
6 America and the times that you held them.

7 A Okay.

8 (Ramirez Exhibit No. 1 marked.)

9 Q (By Mr. Patterson) Will you please review
10 this and let me know does it accurately reflect your
11 employment history?

12 A Yes. Except for I don't know why it says
13 "Asia" up there in the second column, I mean, the
14 second "personal banker II - Asia."

15 Q Okay. But other than that, it appears that
16 it reflects your employment history at Bank of America
17 accurately?

18 A Yes.

19 Q And so when you began working at Bank of
20 America in January of 2003, what position did you
21 hold?

22 A I was hired in as a PBA, which is a personal
23 banker associate, which means you are in training
24 still.

25 Q Okay. And at what banking center did you

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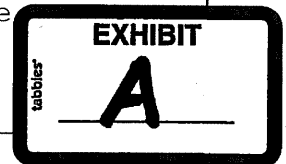
Appx. 002

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVETTE ESPARZA, :
Plaintiff, :
VS. : CIVIL ACTION NO.
BANK OF AMERICA, N.A. and : 3:12-cv-00662-D
RODERICK WILSON, :
Defendants. :

ORAL DEPOSITION OF
DAVETTE ESPARZA RAMIREZ
SEPTEMBER 26, 2012

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Page 21

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19 Q And so when you began working at Bank of
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23 banker associate, which means you are in training
24 still.

25 Q Okay. And at what banking center did you

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Appx. 002

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1 Q And when you refer to Rod, are you referring
2 to Roderick Wilson?

3 A Yes.

4 Q And he was one of the CMM's that oversaw the
5 Bedford Banking Center in 2008?

6 A Yes.

7 Q And what about Melissa Gonzalez?

8 A I did not know or meet Melissa Gonzalez until
9 around March when Wheatland became part of the Dallas
10 reorganization.

11 Q Okay. And when you transferred from the
12 Grand Prairie Banking Center to the Bedford Banking
13 Center, what was your position at the Bedford Banking
14 Center in April of 2008?

15 A Assistant manager.

16 Q And how did you get the position of assistant
17 manager?

18 A Mike Rogers had discussed it with me during
19 one of my performance assessments that he felt I was
20 ready for the next position.

21 Q Okay.

22 A And I expressed an interest in becoming an
23 assistant manager.

24 Q And after you had that discussion, was there
25 a process that you went through? Did you submit an

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1 A From what I can recall they were a busier
2 banking center, meaning, there was a lot more
3 traffic.

4 Q And you are referring to Cooper?

5 A Yes.

6 Q Okay. Now in November 16th of 2010 you were
7 promoted to banking center manager; is that accurate?

8 A Yes.

9 Q And so prior to becoming a banking center
10 manager you had held the position of assistant manager
11 for approximately two-and-a-half years?

12 A The three or four months prior to me
13 transferring to Wheatland, my manager, Jamie Tran, was
14 on maternity leave and I was the only assistant
15 manager at the time, they did away with the other
16 manager by that time, so I was the acting manager and
17 assistant manager for the three months prior to me
18 being asked to be BCM at the Wheatland location.

19 Q Okay. And so how did you apply for the
20 position at the Wheatland center?

21 A I didn't. I applied to be a BCM the same way
22 that I applied to be the AM or they said that we think
23 you are ready, you proved yourself those three months
24 while Jamie was out, maintained the same scores that
25 are maintained while Jamie is there, and I was asked

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Appx. 004

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1 Q And when did Melissa Gonzalez become your
2 CME?

3 A I believe it was the same time. I don't
4 recall.

5 Q And did anybody when you were the manager at
6 the Wheatland location prior to Melissa Gonzalez or
7 Roderick Wilson becoming your CMM and CME, did anybody
8 supervise you on a day-to-day basis?

9 A There was communication between if Crystal
10 and the banking center or whoever if she was on
11 vacation, they would assign someone else to be.

12 Q Did anybody -- was anybody physically present
13 to supervise you on a day-to-day basis?

14 A No.

15 Q And after Roderick Wilson and Melissa
16 Gonzalez between your CMM and CME, was there anybody
17 physically at the bank to supervise your banking
18 activities?

19 A They came less than Crystal and Mike Rogers
20 came.

21 Q So how often would Roderick Wilson show up to
22 your banking center?

23 A Maybe every two weeks, if not three weeks.

24 Q And he was your direct supervisor?

25 A Yes.

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Appx. 005

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1 was following the policy that was placed for
2 situations like that.

3 Q Now when you first started working at the
4 Wheatland location as the banking center manager, did
5 you lobby lead at all when you were recovering from
6 your foot surgery?

7 A Yes.

8 Q And when you did so, you would sit down?

9 A I would both.

10 Q You would stand and sit?

11 A Whichever. If my foot was swelling or
12 hurting, I would sit down. If my knee was hurting or
13 my back was hurting because I was sitting down too
14 much, I would stand up. There were several reasons
15 why my lobby leading would be affected, not just my
16 foot surgery.

17 Q And were there other times where you would
18 assign other people to lobby lead so you wouldn't have
19 to?

20 MS. ALLEN: Objection. Question is
21 vague.

22 A We were told by the market that a lobby
23 leader is necessary at all times and if you were not
24 able to, for whatever reason, to find or place
25 somebody there.

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1 Q (By Mr. Patterson) And were there times when
2 you were unable to and would place somebody else
3 there?

4 A Yes.

5 Q Okay. And were there times when you were
6 unable to lobby lead because of the problem you were
7 having with your feet and you would place somebody
8 else in there?

9 A Yes. Not just my feet, you know, whatever.

10 Q So were there times when you had other
11 problems, physical problems?

12 A Yes.

13 Q And would you assign other people to lobby
14 lead when you had those physical problems?

A They were all compounding injuries, so one
16 affected the other, so it would be if I physically
17 felt able that I could or could not, I would be
18 there. And if I couldn't or I was asked or I was
19 needed behind the teller line for any other reason,
20 those are also other situations where I would find
21 somebody to lobby lead.

22 Q But there were times when you felt physically
23 unable to be able to lobby lead and you would assign
24 somebody else to lobby lead as a result?

25 A Or I would sit down.

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1 Q Or you would sit down. Was there anybody at
2 the Wheatland Banking Center when you were the banking
3 center manager there who was physically present who
4 had the authority to tell you when you would could sit
5 and when you could stand?

6 A No.

7 Q Now in 2011 you received two written warnings
8 for performance. I believe your first written warning
9 was June 13th, 2011.

10 Prior to June 13th, 2011, do you recall
11 receiving any kind of verbal warnings?

12 A Not that was specified that it was a verbal
13 warning.

14 Q And in those two written warnings that you
15 received in 2011, did either one of them discipline
16 you for sitting while you were lobby leading?

17 A Yes. They would say that customers and
18 associates were complaining because I was sitting down
19 in the lobby. It may not have been in the written --
20 formal written warning, but it was expressed to me
21 verbally.

22 MR. PATTERSON: I'm going to introduce
23 Exhibit 3.

24 (Ramirez Exhibit No. 3 marked.)

25 Q (By Mr. Patterson) Is this the written

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Appx. 008

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1 Q Okay. And did you have mock audits, mock
2 reviews?

3 A That was something that the market did, yes.

4 Q Did you have a mock review in May of 2011?

5 A I believe so.

6 Q And what was the purpose of the mock
7 reviews?

8 MS. ALLEN: Objection. Calls for
9 speculation.

10 A To prepare for the actual audit.

11 Q (By Mr. Patterson) And would you get -- if
12 the mock review revealed a violation of a policy or a
13 procedure, would you get disciplined for that?

14 A No. Be coaching.

15 Q Because the purpose of the mock reviews were
16 conducted to prepare you for the actual audit or
17 review; is that accurate?

18 A Yes.

19 (Ramirez Exhibit No. 8 marked.)

20 Q (By Mr. Patterson) I'm going to hand you
21 what I've marked as Exhibit 8.

22 MS. ALLEN: You did get my request for
23 privilege law, didn't you? I see some are
24 redactions. Are you going to get that to me?

25 MR. PATTERSON: Yes. This is just an

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1 policies?

2 A From what I recall, whoever sold the money
3 needed to initial and whoever bought it from them
4 needed to have initialed.

5 Q And the audits of your bank, they were
6 conducted to ensure that the banking center you
7 managed was following the procedures of the bank?

8 A Yes.

9 Q And why was it important to ensure that your
10 bank was following the procedures?

11 A There would be occasional human error and it
12 needed to be identified.

13 Q Why did it need to be identified?

14 A To prevent loss.

15 Q So if the policies and procedures weren't
16 being followed, it represented a liability to the
17 bank; is that accurate?

18 MS. ALLEN: Objection. Question
19 misstates prior testimony and the question is vague.
20 Go ahead.

21 A If that type of error was typically human
22 error and not that the policy was not in place at
23 Wheatland.

24 Q (By Mr. Patterson) I understand that. But
25 it was important for the people who worked in your

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1 bank to follow the policies and procedures of the bank
2 to prevent the bank from experiencing losses, right?

3 A I would agree.

4 Q And as the manager of the bank you were
5 responsible for ensuring that the individuals that you
6 managed followed the policies and procedures of the
7 bank, weren't you?

8 A I would agree.

9 Q And would you agree that this is, you know,
10 one of the major responsibilities that you had as a
11 manager?

12 A One of them, I would agree.

13 Q Okay. And do you know how the audits were
14 scored?

15 A I don't recall.

16 Q If a policy or procedure wasn't followed,
17 would it result in what was called a finding?

18 A Yes.

19 Q Okay. So what is a finding?

20 A When they find something that was not done
21 properly or expectation.

22 Q And this could refer to any policy or
23 procedure, correct?

24 A They usually focused on certain ones.

25 Q Okay. And so would a repeat finding be --

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1 Q Okay. And were you able to sit down every
2 once in a while?

3 A He would complain about it and tell me he got
4 phone calls from customers and that the tellers were
5 complaining about me sitting down all the time.

6 Q Okay. Were you unable to sit down or were
7 you able to sit down? Were you prevented from
8 sitting?

9 A I would sit down as needed.

10 Q Okay. But you are stating that you received
11 some type of discipline because you sat?

12 A He would make comments to me about me sitting
13 down, about tellers complaining about me sitting down,
14 about customers calling him directly to complain that
15 I was sitting down.

16 Q Did you ever tell the customers why you were
17 sitting done?

18 A The ones that would ask.

19 Q Okay.

20 A Or they would see my cast or my foot brace or
21 my knee brace or a cane or my crutches.

22 Q So did you ever make an accommodation or a
23 request from anybody else other than the people we
24 already discussed?

25 A Besides Aetna?

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1 Q Okay. Did any of your requests for FMLA
2 leave, were any of them ever denied?

3 MS. ALLEN: Intermittent when she asked
4 for days off? Objection, question is unclear and
5 vague.

6 Q (By Mr. Patterson) Did you ever apply for
7 FMLA leave and have that application for leave
8 denied?

9 A No.

10 (Ramirez Exhibit No. 17 marked.)

11 Q (By Mr. Patterson) I show you what has been
12 marked Exhibit 17. It is Advice & Counsel notes.
13 There is a create date on the first page. What is
14 that create date?

15 MS. ALLEN: Do you have one for me?

16 MR. PATTERSON: Did I not give you one?

17 A The create date says June 15, 2011.

18 Q (By Mr. Patterson) Okay. And on the second
19 page it shows you called Advice & Counsel and said
20 that you had some back and knee issues and had been
21 treated by a doctor.

22 And then the last paragraph says you
23 were coached to obtain a doctor's note with any
24 restrictions and length of the restrictions.

25 Do you remember this call? Do you

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1 Q In August of 2011 did you have a discussion
2 with Roderick Wilson about a \$2200 loss or a loss of
3 approximately in the amount of \$2200?

4 A I had a discussion. I don't recall the
5 date.

6 Q Okay. And did you approve that transaction?

7 A It was being investigated at the time still.

8 Q Did you approve that transaction?

9 A I believe my MBK was the one that ended up
10 being the approving supervisor.

11 Q Okay. And when you initially talked to
12 Roderick Wilson about this \$2200 loss, did you
13 communicate to him that the loss had come back to a
14 teller?

15 A I communicated with him that the banking
16 center was just advising it was being investigated.
17 Thomas and Brittany were the ones that showed me the
18 first documentation.

19 Q So you never called Rod regarding the \$2200
20 loss and communicated to him that it came back to a
21 teller at your bank?

22 MS. ALLEN: Objection. Question is
23 compound.

24 A I remember having a discussion with Rod at
25 the banking center. He happened to be in on the same

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Appx. 014

Job No. 14842
Esparza v. Bank of America

Roderick Wilson Vol 2
October 25, 2012

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVETTE ESPARZA,
Plaintiff

v.

BANK OF AMERICA, N.A.
and RODERICK WILSON,

Defendants

§
§
§
§
§ CIVIL ACTION NO.
§ 3:12-cv-00662-D
§
§
§
§

ORAL DEPOSITION OF
RODERICK EARL WILSON
Volume 2 of 2
October 25, 2012

ORAL DEPOSITION OF RODERICK EARL WILSON,
produced as a witness at the instance of the
Plaintiff, and duly sworn, was taken in the
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CSR No. 744, in and for the State of Texas, reported
by Stenographic method, at the offices of ACKERMAN
SENTERFLITT, 2001 Ross Avenue, Suite 2550, Dallas,
Texas 75201, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the record.

Job No. 14842.as



Job No. 14842
Esparza v. Bank of America

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1 A. At her banking center.

2 Q. Who was with you?

3 A. Nobody. Just me.

4 Q. Where did you meet?

5 A. In her office.

6 Q. And what did you say to her?

7 A. That's been about a year ago. So, off the
8 top of my head, what I said to Davette was based on
9 performance, based on the loss and the investigation
10 of the account that was opened under another
11 associate's sign-on, we're going to have to terminate
12 your employment with Bank of America.

13 Q. Did you say anything else?

14 A. I think she made a comment that I couldn't
15 terminate her. And I said, based on the terms I just
16 gave you, I can.

17 Q. Did you say anything else?

18 A. To my knowledge that's all that was said.

19 Q. How long did the meeting last?

20 A. Probably five minutes tops. And then I
21 helped her carry her items out to her car.

22 Q. So the meeting you had with Davette lasted
23 five minutes tops. During that meeting you said,
24 based on your performance and based on the fact that
25 you signed off an account under somebody else's ID,

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Esparza v. Bank of America

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1 we're going to terminate your employment?

2 MR. PATTERSON: Objection, form.

3 A. What I said was, is that based on your
4 performance, based on the account that was opened on
5 another associate's sign-on, and based on the loss
6 that she had taken, or that she had signed off on, was
7 going to terminate her employment with Bank of
8 America.

9 Q. Did you say anything else?

10 A. Well, she made the comment -- and I just
11 stated that a minute ago. But she made the comment
12 that, you can't terminate me.

13 And I said, based on the terms and
14 conditions I just gave you, yes, I can. And then I
15 helped her carry her items out to her car.

16 Q. Now, after you said, yes, I can, you started
17 what, gathering up her items?

18 A. Well, I gave her the opportunity to start
19 packing up her items. I helped her carry them out to
20 her car. She had a -- I think she had some boxes,
21 some pictures, a refrigerator; items that were in her
22 office.

23 Q. How did you give her the opportunity to pack
24 up her office?

25 A. I let her pack it up.

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1 get it in on time or ask for an extension?

2 A. Okay. So based on my knowledge, whenever I
3 made a request of my managers, they got those
4 deliverables in on time.

5 Davette was really the only one who,
6 every kind of made a -- maybe not every time. But
7 quite often, when I made a request of her, she'd turn
8 items in late. It was a trend.

9 Q. Did you ever inquire whether or not Davette
10 Esparza's Intermittent Family Medical Leave Act could
11 be -- absences to be contributing to the failure to
12 get the, quote, deliverables, as you called them, in
13 on time?

14 MR. PATTERSON: Object to form.

15 A. I never questioned her leave or her impact
16 in her work. The only thing I coached and held her
17 accountable for was when she was in the banking
18 center.

19 If she had had any issues with wanting
20 extensions or needing more time, she should have
21 brought that information to my attention. And she --
22 and to my knowledge, she did not once bring to my
23 attention: I am having to miss work for X. Can I get
24 an additional day or two days based on this?

25 Q. Now, you do recall that Davette tried to

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Esparza v. Bank of America

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October 25, 2012

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1 talk to you about needing some FMLA leave of absence
2 time in September for some surgical or medical
3 procedure, don't you?

4 A. I want to say she had sent me some type of
5 email stating she was getting ready to have knee
6 surgery or back surgery, but I don't remember
7 specifics on it.

8 But I'm not the one who approves or
9 declines FMLA leave. That all goes through our Aetna
10 department. I have no say-so in approving leave.

11 Q. But you understand that Davette had gone
12 through Aetna and had been approved for intermittent
13 FMLA leave, correct?

14 A. I do understand she was approved for that.
15 But again, I have no say-so in approving or declining
16 a leave. But I know she had been approved for
17 intermittent leave.

18 Q. So what is your role with respect to
19 approving when Davette needed to take intermittent
20 FMLA leave?

21 A. I don't have a role. If she needed to
22 take -- the way I understand intermittent leave is
23 that it allows her to go to any doctor's appointments
24 or follow-up appointments as necessary.

25 She just lets me know, shoots me an

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1 email saying, I need to be off. And that's it. I
2 don't approve or decline her taking the time off
3 because it's already been approved by Aetna.

4 Q. Did Davette ever shoot you an email and let
5 you know she'd be taking intermittent leave for any
6 reason?

7 A. Sometimes yes, sometimes no.

8 Q. What do you mean, sometimes no?

9 A. Sometimes she shot me an email, and
10 sometimes she didn't. Like the example I gave you, I
11 would stop by the center sometimes and she was gone.

12 Q. And you later learned that she was gone for
13 some doctor's visit or the other?

14 A. It was for a variety of things. Sometimes
15 it was doctor's appointments. Sometimes it was a
16 function at her kids' schools. There was a variety of
17 times that I showed up sometimes and she wasn't there.

18 But I just want to be clear. I did not
19 approve or decline any type of leave with the bank.

20 Q. Okay. So it's your testimony that Davette
21 would shoot you an email saying, I need to be gone for
22 these three days, or this day, or these two hours; and
23 you would just take that as information and not
24 respond?

25 A. End of conversation. I didn't approve or

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October 25, 2012

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1 decline any of her leave.

2 Q. So you didn't -- when she let you know she
3 had to be gone for intermittent leave, you didn't give
4 her any feedback or response?

5 A. There isn't any feedback to give her. I
6 can't tell her she can't go. I can't tell her when to
7 go. I can't tell her to switch appointments.

8 She tells me she needs the time off
9 based on intermittent leave, and she's allowed to take
10 it.

11 Q. But you were aware, weren't you, that
12 Davette had arranged to take intermittent leave with
13 HR -- or with Advice and Consent {sic}, because you
14 wouldn't deal with her on that subject, in late
15 September?

16 MR. PATTERSON: Object to form.

17 A. So, time out. You maybe need to restate the
18 question. I didn't understand it.

19 Q. Well, Davette testifies that she tried to
20 talk to you about the need to take intermittent FMA
21 {sic} leave in September, late September, that she was
22 already approved to take that leave before you fired
23 her, a couple of weeks before she was to leave or a
24 couple of days before she was to leave.

25 Is any of that in your recollection?

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October 25, 2012

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1 MR. PATTERSON: Object to form.

2 A. The only thing I remember is that Davette
3 shot me an email that said she was going to need to
4 have some surgery. At that time I was not aware if
5 her leave had been approved or declined. I have no
6 say-so in that.

7 Once it's approved, I get an email or
8 some type of communication from them stating, employee
9 leave, will be back on X day.

10 But at that time all I had gotten was
11 an email from Davette, I want to say stating that she
12 needed either back surgery or knee surgery, and that
13 she was going to need to take some time off in
14 September. I was unaware if her leave had been
15 approved and/or declined.

16 Q. And it's your testimony you didn't respond
17 one way or the other to Davette with regard to that
18 leave in September?

19 A. To my knowledge, I don't remember responding
20 to her because, I mean, I have no way to -- I don't
21 approve the leave or decline it, so there wasn't
22 really anything for me to say.

23 Q. So as her manager, it's your testimony that
24 you had absolutely no role in Davette being allowed to
25 take intermittent FMLA leave?

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1 A. I have no role. Nobody but Aetna determines
if she gets approved or declined for leave; not me,
not Melissa Gonzalez, not any bank associates. It's
all handled through Aetna.

6 Q. And if Davette testifies that Advice and
7 Consent informed her she was to talk to her manager
8 about the need to be absent for intermittent FMLA
9 leave, would you believe she's lying or mistaken about
10 that?

 MR. PATTERSON: Object to form.

 A. No, she would be right. She's supposed to
email me. She just didn't do it every time.

 But the email is just to let me know.
15 It not to approve or decline. I cannot approve or
16 decline any leave. Intermittent, maternity, any type
17 of leave I cannot approve or decline. Per FML -- not
18 FMLA, but per intermittent leave, she's supposed to
19 shoot me an email and let me know. She just didn't do
20 that every time.

21 Q. And how did you feel when you figured out
22 she was gone on intermittent leave and you didn't get
an email?

23 A. Really I didn't feel one way or the other.
24 My only concern was not knowing that a manager wasn't
25 at the bank for the associates, for the customers.

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 DAVETTE ESPARZA,

5 Plaintiff,

6 vs.

NO. 3:12-cv-00662-D

7 BANK OF AMERICA, N.A.
8 and RODERICK WILSON,

9 Defendants.

10 ORAL DEPOSITION OF
11 FLORENCE 'DEE' COBLE
12 November 14, 2012

13 ORAL DEPOSITION OF FLORENCE 'DEE'

14 COBLE produced as a witness at the instance
15 of the PLAINTIFF, and duly sworn, was taken
16 in the above-styled and numbered cause on
17 November 14, 2012, from 10:21 a.m. to 1:11
18 p.m., before Lisa A. Wheeler, RPR, CRR, in
19 and for the State of North Carolina, reported
20 by stenographic method, at the offices of
21 McGuire Woods, LLP, 201 North Tryon Street,
22 Suite 3000, Charlotte, North Carolina,
23 pursuant to the Federal Rules of Civil
24 Procedure, Notice and any provisions stated
25 on the record.

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1 A. On 7/13, yes, I did speak to her.

2 Q. And the substance of the
3 conversation you wrote down in the notes,
4 correct?

5 A. Yes.

6 Q. Then it looks like you tried to call
7 her earlier on the 13th as well and you made
8 a note of that?

9 A. I called -- well, that's prior to
10 the -- the call where I actually got her but,
11 yes.

12 Q. Okay. And then this is reverse
13 chronological order so then on the 8th of
14 July you also called the employee and you
15 left a message advising her that her concerns
16 have been addressed and left a direct number
17 and message. Did you make that note?

18 A. I did.

19 Q. What did you leave -- what message
20 did you leave?

21 A. That her concerns had been addressed
22 and my direct callback number.

23 Q. Do you remember what those -- what
24 you said at this point, what concerns you
25 were talking about?

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1 A. Okay. I see it.

2 Q. Now would you read that little four
3 lines there.

4 A. CMM states was initially calling in
5 to advice and counsel to -- to discuss
6 placing associate on disciplinary action.
7 CMM states will still need to address the
8 issues associate is having in performance.
9 Advise CMM understands. Advise CMM will
10 reach out to associate and advise concerns
11 have been addressed. CMM states will call
12 advice and counsel back to discuss
13 associate's performance issues.

14 Q. And so then you went on to discuss
15 the concern that the employee brought to you.
16 Is that what these notes mean?

17 A. Correct.

18 Q. Do you recall anything specifically
19 about whether or not the employee's concerns
20 that other stores had scored a six had not
21 been treated the same as she?

22 A. Only what I would have put in here.

23 Q. But in reading these notes it is
24 clear, isn't it, to you that the employee was
25 concerned that she was being treated in a way

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1 performance manager but, again, I -- I don't

Q. Okay. EE states on the following
leader call after the audit they discussed
best practices. EE states the CME makes the
6 PowerPoint presentation, was made and
7 forwarded to her team. EE states the first
8 page said, this is what failure looks like.
9 EE states was devastated. Now here's the
10 part -- I want to know what you meant by
this. EE states there were audits after her
that made a six but didn't see the same type
of treatment with them.

How did you interpret what the
employee was complaining about there?

A. The -- this is what failure looks
like.

Q. The fact that -- that there was a
19 PowerPoint presentation that said, this is
20 what failure looks like?

A. Based on her stating that she was
22 devastated, yes.

Q. And also did you understand her to
23 say that other employees' banking centers had
24 made a six and they didn't get treated the
25

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1 same way that she did?

2 A. From -- from what I have here, yes.

3 Q. So you understand that to be a
4 complaint about disparate treatment, don't
5 you?

6 A. I understand that to be the
7 associate's concern, that there weren't other
8 PowerPoint presentations the same.

9 Q. You understood that the employee was
10 complaining about being treated disparately,
11 correct? I have the same score as somebody
12 else. They didn't have this PowerPoint
13 presentation that said, this is what failure
14 looked like, I did. You understood that,
15 correct?

16 A. That she was upset, yes.

17 Q. And about disparate treatment?

18 A. About the PowerPoint presentation
19 stating, this is what failure looks like,
20 yes.

21 Q. And you understood she was concerned
22 because other people weren't treated the
23 same -- as harshly as she was. You
24 understood that, didn't you?

25 A. From --

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1 Exhibit 1, correct?

2 A. Correct.

3 Q. And then on the 8th there's another
4 note. Did you make that note?

5 A. I did not.

6 Q. Can you tell me why that note was
7 made a part of this case number?

8 A. I cannot.

9 Q. Okay. But in any event, we do know
10 that Mr. -- from these notes anyway that
11 Mr. Wilson called in to discuss the
12 employee's performance, discussed COD Coble
13 had reached out to market. CMM states he has
14 had several EEs call him in recent days.
15 Discussed CO would call him -- would call CMM
16 before today.

17 And that's what your associate wrote
18 on the 8th. That's your understanding of
19 reading that, correct?

20 A. What my teammate wrote, yes.

21 Q. What is the next thing that happened
22 regarding Davette Esparza and her issue she
23 called you about?

24 A. I called the CMM.

25 Q. And what date and time did you call?

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1 A. On 7/8, the same day.

2 Q. Okay. And in terms of the
3 conversation that you had with the CMM Rod
4 Wilson and with the CME Melissa on the line,
5 the conversation was documented by you in
6 your notes that follow the create date 7/8,
7 correct?

8 A. Correct.

9 Q. And other than these notes do you
10 have any independent recollection of
discussions with Roderick Wilson or Melissa
Gonzalez about Davette Esparza?

A. I do not.

Q. Okay. And then you left the message
15 for the employee it looks like that the
16 concerns had been addressed. Is that
17 accurate?

18 A. It is.

19 Q. Now it looks like you called again
20 on the 13th. Can you tell me why?

21 A. Because I had not heard back from
22 the associate.

23 Q. Okay. And so on the 13th the
24 associate did call you back?

25 A. Correct.